Before The
Federal Communications Commission
Washington, D.C.

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In the Matter of	)	
	)	CC Docket No. 02-6
Schools and Libraries Universal	)	
Service Support Mechanism	)	
	)	

<u>**REPLY COMMENTS OF SCHOOLWIRES, INC**</u>.

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REPLY COMMENTS OF SCHOOLWIRES, INC.

Schoolwires, Inc. ("Schoolwires"), by and through its attorneys, submits these reply

comments in response to the comments filed under the Commission's Further Notice of

Proposed Rulemaking ("FNPRM") addressing proposed changes to the eligibility of certain

services under the schools and libraries universal support mechanism ("E-rate").[1]

I. THE COMMENTS DEMONSTRATE THAT WEB HOSTING SHOULD REMAIN AN ELIGIBLE PRIORITY 1 SERVICE.

A. The Commission's Proposed Action Would Threaten Many Schools' Most Important Communication Tool

Removing web hosting from E-rate funding eligibility would jeopardize one of schools'

most important avenues for communicating important information, their public websites. All of

Schoolwires' customers recently surveyed reported that their school's website is their key tool

for communicating to students' families and fostering the community's involvement in their

school.[2] This was a point consistently raised in the comments.[3] For instance, Funds for

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[1] *In the Matter of Schools and Libraries Universal Support Mechanism,* Further Notice of Proposed Rulemaking, FCC 09-105 (rel. Dec. 2, 2009), 75 Fed. Reg. 32692 (June 9, 2010) ("FNPRM").
[2] Comments of Schoolwires, Inc., CC Docket 02-6, p. 3-4 ("Schoolwires").
[3] *See, e.g.*, Comments of eChalk, Inc., CC Docket No. 02-6, p. 5 ("Communication via the web has almost completely replaced other forms of communication that dominated when the Telecommunications Act of 1996 was

Learning noted that community stakeholders have several options when they seek information about their school: (1) phoning the school; (2) e-mailing the school (if they know the recipient's email address); or (3) they could visit the school's website, if it has one, which "is obviously the fastest and most efficient of the three options and certainly the least disruptive and time-consuming" for a school's staff.[4] As stated by eChalk, "[t]hus, it seems both counter-intuitive and conceptually inconsistent for the E-rate program to provide funding for the connectivity that makes [phone and e-mail] possible but not to fund [web hosting],"[5] a move that could lead to many schools losing this important connection to their communities.

The E-rate program's purpose is to enhance students' ability to learn, a purpose that will be undermined if school staff is forced to spend more time responding to information requests and less time exploring ways to enhance children's education experience.

B.   **Web Hosting Facilitates More Effective Learning and Greater Student Engagement**

Web hosting does more than connect schools to their communities; it also provides the pathway necessary to deliver innovative tools that connect children to the material they are learning. In a recent *Washington Post* article by Blair Levin and J. Erik Garr, the architects of the FCC's National Broadband Plan, the authors presented two hypothetical learning scenarios for a student named Johnny.[6] In the first, "Johnny opens his math textbook and reads a chapter," part of which he does not understand. He then does his math homework on paper and hands it in the next day. When he gets the assignment back, he sees his score: 7 of 10 questions correct.

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written." "Web Hosting helps schools and libraries communicate with their constituents 24/7/365 in a way that was not possible before and is now a *required component* for any institution's communications efforts.") (emphasis added) ("eChalk"); Comments of the National Telecommunications Cooperative Association, CC Docket No. 02-6, p. 2-3; Comments of Funds for Learning, LLC, CC Docket No. 02-6, p. 5 ("Funds for Learning"); Comments of Edline and ePals, Inc, CC Docket No. 02-6, p. 11 ("Edline and ePals").
[4] Funds for Learning at 5.
[5] eChalk at 5.
[6] Blair Levin and J. Erik Garr, "A New America Through Broadband," *The Washington Post*, Friday, July 16, 2010, p. A17.

While this may be how we learned math, broadband enables a new, more effective way to learn. As explained by Levin and Garr:

> Envision this: Johnny pulls up a math chapter on his e-reader. When he doesn't understand something, he clicks a link and watches a video of a great teacher presenting the concept, perhaps using a cool simulation. If Johnny still doesn't understand, he can chat online with a tutor familiar with the material. When Johnny does his homework on his e-reader, he immediately learns what he got wrong and sees an explanation based on his particular mistake. Johnny's parents receive a text or e-mail saying that he finished his math homework. The teacher receives a report that evening outlining what the class found straightforward and which problems puzzled students, along with suggestions on how to address the inadequacies. The school board receives data that lead to constant improvement in the effectiveness of course material.[7]

Eliminating web hosting services from E-rate funding eligibility will result in far fewer students enjoying access to the learning tools that Levin's and Garr's hypothetical student uses to enhance his learning. But, as stated in the comments of Blackboard, Inc.: "Simple Internet connections do not, by themselves, promote the goals of the E-rate Program; schools must have strong applications to take advantage of the Internet connections made available."[8] The comments support this view, detailing a wide range of tools schools have successfully implemented thanks to the web hosting that E-rate discounts help make possible.[9]

School administrators consistently report that the educational tools provided on their websites have increased student and parental engagement with the learning process, extended the time students spend learning, and facilitated more individualized learning, yielding measurable improvements in teaching and learning outcomes.[10]

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[7] *Id.*

[8] Comments of Blackboard, Inc., CC Docket 02-6, p. ii ("Blackboard").

[9] As Schoolwires noted in its comments, it is not suggesting that E-rate funding be used to support the software and other tools made possible by web hosting services. Schoolwires at 1-2. Schoolwires is stating, however, that eliminating web hosting as an eligible service will lead to many schools, students, and other stakeholders losing access to those services.

[10] Schoolwires at 4-12.

A school district in Newark, New Jersey, for example, reported that the number of students who decided to continue in the district's AP Physics program and enrolled in its advanced course, increased to 50% after the district implemented collaborative learning tools that used a web hosting service as a central hub of communication, compared to the state-wide average of 2%.[11] Similarly, withdrawing support for web hosting "would limit the ability of students and teachers to take advantage of" distance learning programs, programs that web hosting services make easier to administer.[12] Another school district was noted in comments of Edline and ePals that its students and teachers use over 4,000 laptop computers and thousands more desktop computers every day to access learning and communication tools provided by web hosting and asserted that "[w]eb hosting has become more critical than any other vehicle for communication," perhaps "even more critical than traditional libraries . . . ."[13]

C. Eliminating E-Rate Support for Web Hosting Will Threaten Schools' Crisis Management Plans and Disproportionately Impact Poorer Schools

Schools' websites, provided through a reliable web hosting service, also serve a key role in school districts' crisis management plans. Web postings and electronic alerts are among school leaders' primary tools for communicating school closings, lock downs, evacuations, and other emergencies to parents and the community.[14] Commenters noted that online applications accessed through web hosted services "can maintain the educational experience when school is not in session" by planning for curriculum delivery in the event of health and safety emergencies in the same way universities administer online courses. [15]

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[11] *Id.* at 6.
[12] Comments of Blackboard, Inc., CC Docket No. 02-6, p. 18.
[13] Edline and ePals at 12, *citing* Comments of Lowell Shira, San Lorenzo Unified School District, CC Docket No. 02-6, filed on July 6, 2010.
[14] *See* Schoolwires at 13.
[15] Blackboard at 11-12.

Removing web hosting from the E-rate eligible services list will have a disproportionate impact on schools with fewer financial resources, especially in rural areas. An assistant superintendent from Clay County, Kansas asserted that "[e]liminating E-rate funding for web hosting will only further hinder financially struggling districts" already forced to get by with "fewer staff members to answer phones, send written messages, and publish newsletters."[16] Funds for Learning supported the Clay County administrator's view stating that "many applicants simply will not have the resources necessary to continue operating their public websites. And, when one avenue of communication is severed, demand for alternatives will naturally increase. As such . . . overhead costs for school and library personnel will increase" as they spend more of their time responding to telephone calls and emails.[17]

D. Web Hosting Supports an Efficient and Secure Unifying Hub for Accessing Schools' Broadband Enabled Educational Resources

Schools rely on a wide range of technologies to serve diverse needs, and individual resources often harmonize poorly when applied and managed piecemeal. Working with companies like Schoolwires, schools can now avoid many of the challenges inherent in using diverse technologies for discreet needs, because web hosting allows schools to access and manage their technology tools through a unified web hosted platform. Such platforms consist of ineligible software applications bundled with E-rate-supported web hosting, enabling schools to tailor technology resources to their students' needs and to access them through a single, customizable and data protected Internet portal.[18] Moreover, web hosting services that specialize in serving schools, like Schoolwires, are in the best position to meet school districts'

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[16] Edline and ePals at 11 (*citing* Comments of Assistant Superintendent Sherri L. Edmundson, Clay County USD, Kansas, CC Docket No. 02-6, filed July 7, 2010.)

[17] Funds for Learning at 5.

[18] *See* Schoolwires at 14; Blackboard at 2.

unique data privacy requirements, offering a level of data protection that more broadly focused commercial web hosting companies simply do not offer.[19]

As students, parents, and teachers continue to demand more specialized and sophisticated online learning tools ineligible for E-rate funding, E-rate-supported web hosting services that provide scalable, easy-to-use, secure, aggregated access to those tools will grow in importance. Eliminating web hosting from E-rate eligibility would undermine schools' efforts to achieve that goal.

E.   The Commission's Treatment of Web Hosting Must be Consistent with its Reasoning Applied to Other E-rate Eligible Communications Services

The Commission's core principal of competitive neutrality compels including web hosting as an eligible service.[20] Edline and ePals noted that the Commission recently declared interconnected VoIP and text messaging eligible for E-rate funding.[21] In the case of VoIP, for example, the Commission reasoned that it should be eligible for E-rate support because it will "enhance access to advanced telecommunications and information services for schools and libraries," thereby increasing "the options available to schools and libraries to encourage meaningful communications among parents, teachers, and school and library administrators."[22] Because VoIP supports communications, as do other eligible services, the Commission explicitly stated that its decision was guided by "the concept of competitive neutrality, which is the principle of treating similarly situated services in the same manner for E-rate funding purposes . . ."[23] As stated by Edline and ePals, "[j]ust as the Commission determined that text

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[19] *See* Schoolwires at 14-15.

[20] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report & Order, 12 FCC Rcd. 8776, ¶ 21 ("'[C]ompetitive neutrality' should be among the principles that guide the universal service support mechanisms and rules. We adopt this principle…").

[21] Edline and ePals at 15-16.

[22] *Id*. at 15 (*citing In the Matter of Schools and Libraries Universal Support Mechanism*, Report and Order and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 6562.¶ 13 (2009).

[23] *Id.* at 16.

messaging [or VoIP] is similar to e-mail because it allows applicants to communicate, it should make the same determination with respect to web hosting and other *similarly situated* web-based communications tools which perform online communication functions for the school community."[24]

F. Removing Web Hosting from the Eligible Services List Would Undermine the Goals of the National Broadband Plan and the FNPRM

Eliminating web hosting from eligibility for E-rate support conflicts with the Commission's goals for education technology as outlined in the National Broadband Plan and the FNPRM. The Commission proposed in the National Broadband Plan to "provid[e] greater flexibility for schools to choose the most cost-effective and educationally useful broadband services,"[25] yet by proposing to disqualify web hosting for E-rate support, the Commission is making a move in the opposite direction.

The record clearly establishes that E-rate-supported web hosting, and the ineligible educational tools it makes possible, are among the most "educationally useful broadband services" available, and that schools are choosing them en masse. As commented by Blackboard, "[a]s a general matter, much of the Internet's power lies in its ability to allow people to access and share information posted online. In the school context, this takes the form of allowing teachers to post assignments, reading materials, and school projects online, and allowing students to respond to these postings both individually and in collaborative groups."[26]

That Internet access alone is inadequate to harness its power in a school setting is almost universally recognized by experts and schools themselves, yet here, the Commission is "applying a backward-looking, anachronistic definition of telecommunications and information services

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[24] Edline and ePals at 15 (emphasis added).
[25] Edline and ePals at 6.
[26] Blackboard at 17.

that myopically focuses on the conduit of information rather than the content."[27]   This "backward-looking" view is in direct conflict with the Commission's stated goals in this proceeding: to "giv[e] applicants more flexibility in selecting broadband services funded by E-rate, schools and libraries," enabling them "to leverage their finite E-rate dollars to . . . obtain higher bandwidth services that will enable more customized interactive learning to engage increasingly computer-savvy students."[28]   The comments confirm that E-rate support for web hosting is facilitating, not hindering, schools' efforts to implement "more customized interactive learning" tools to "engage increasingly computer-savvy students."

II.   THE COMMENTS SUPPORTING REMOVAL OF WEB HOSTING FROM THE ELIGIBLE SERVICES LIST ARE UNPERSUASIVE

A.   Claims that Web Hosting is Depleting the USF Are Not Valid

Two of the (very few) commenters who agree with the proposal to remove web hosting from the eligible service list ("ESL") cite concern about the availability of sufficient funding for Priority 1 services as their *sole* reason for supporting the eligibility change. The California Department of Education's argument for the removal of web hosting from the ESL is based on an "assumption" that the Commission proposed the change in an effort to make more funding available.[29]   In their joint comments, the Alaska State Library, the Alaska Department of Education and Early Development and the Alaska E-rate Coordinator's Office encourage removal of web hosting because they "share the Commission's desire to assure adequate funding for Priority 1 services . . ."[30]   The CDE and Alaska Joint Commenters' positions are based on a

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[27] *Id.*

[28] *In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, 25 FCC Rcd 6872 (2010) at ¶ 6 ("National Broadband Plan NPRM").

[29] *See* Comments of the California Department of Education, CC Docket No. 02-6, p. 10-12 ("CDE").

[30] *See* Comments of the Alaska State Library, Alaska Department of Education and Early Development and the Alaska E-rate Coordinator's Office, CC Docket No. 02-6, p.7 ("Alaska Joint Commenters").

misunderstanding of why the Commission has proposed to eliminate web hosting from the ESL and on a misperception of the amount of E-rate funding attributable to web hosting services (and consequently, the impact on the fund if web hosting loses its eligible status).

The Commission's reason for reviewing the eligibility of web hosting is stated unequivocally in the FNPRM as follows: "We tentatively conclude that we should remove web hosting from the ESL, because, while many school districts find web hosting to be a useful way to post information for parents and the community, we do not believe it is essential to the educational purposes of schools and libraries."[31] Although this rationale has been debunked by the record in this proceeding,[32] it is the basis for the Commission's inquiry into the eligibility of web hosting. It is true that the Commission is proposing other changes to the E-rate program that would promote funding availability, provide stability and certainty for the funding of Priority 2 services, and increase funding for internal connections but it is not true for web hosting.[33]

Significantly, proposed reforms under the National Broadband Plan NPRM include indexing the funding cap for inflation, establishing a new funding mechanism for internal connections, and revising the Priority 2 discount matrix.[34] The elimination of web hosting as an eligible service is not one of the reforms because, contrary to unsupported assertions made by the State E-rate Coordinators Alliance ("SECA"), web hosting does not account for a significant portion of total E-rate funding.[35] In fact, as eChalk notes in its comments, funding for web hosting is only a small portion of total funding for the Internet Access category. As commented

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[31] FNPRM at ¶ 37.
[32] *See* Section I above.
[33] *See* National Broadband Plan NPRM at p. 4.
[34] *See* National Broadband Plan NPRM at ¶ 45-61.
[35] SECA points to the growth in demand for funding the Internet Access category between 2004 and 2009 as proof that funding requests for web hosting services are inflating the E-rate fund. SECA does not explain how this growth is attributable to web hosting. In fact, there are a variety of factors that may account for the growth. For example, wide area networks ("WANs") provided by non-telecommunications carriers are eligible under the Internet Access category in certain situations. It is quite possible that funding requests for WANs provided by non-telecommunications providers increased during the period 2004 and 2009.

by eChalk, "According to data found on Erate Manager (operated by Funds for Learning) the total funding committed for Internet Access since the inception of the program is $3.21 billion, and the total funding committed for the group of vendors that offer some sort of web hosting service is $89 million or 2.7% of the total IA funding over time."[36]

Clearly, web hosting services are not depleting the E-rate fund and the Commission is not evaluating the eligibility of web hosting as a solution to funding availability issues.

B.   Tying Eligible Services to Internet Access is Irrelevant

Several commenters believe the Commission should limit support to web hosting that is bundled with a school or library's Internet access service.[37] Verizon claims that doing so will address Commission concerns that web hosting services are being interpreted too broadly.[38] ESPA supports funding of web hosting service when it is bundled with Internet access in a cost effective manner, but does not support funding of web hosting as a separate service.[39]

Tying the eligibility of web hosting to Internet access is irrelevant to the Commission's evaluation of the eligible status of web hosting and would unfairly limit schools and libraries in their choice of service providers. The analysis of whether web hosting is eligible under the E-rate program rests on whether it serves the educational purposes of schools and libraries. Whether web hosting is bundled with Internet access has no bearing on this analysis. Likewise, requiring web hosting services to be tied to Internet access does not alleviate or provide a solution to the Commission's concerns about what aspects of web hosting are eligible, how these components can be clearly defined in the ESL, and whether the current cost allocation process for ineligible services is adequate.

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[36] eChalk at 5.
[37] *See* Comments of Verizon and Verizon Wireless ("Verizon") and Comments of E-rate Service Providers Association ("ESPA").
[38] Verizon at p.13.
[39] ESPA at ¶ 10.

C.   Web Hosting Costs Are Not Skewed

SECA claims that K-12 web hosting vendors are charging fees for eligible web hosting features that are significantly higher than web hosting fees charged in other market sectors.[40] It is true, as SECA states in its comments, that there are other, less expensive, commercial web hosting services available to the K-12 community. However, these types of services are not sufficient, practical, or cost-effective for the growing needs of school districts. Web hosting services tailored to the K-12 community provide privacy, security, availability during emergencies, and standards that are critical requirements for school districts.[41]

School districts require a dedicated and specialized infrastructure to ensure privacy, scalability, performance, and reliability. Access to a school district's data must be limited, protected, and audited. Commercial web hosting companies are not set up to handle the set of complex requirements unique to the K-12 community. Edline and ePals note, for example, that K-12 web hosting providers usually include a site for each school building within a district in addition to sites for hundreds of additional classes, clubs, and departments that must be individually administered by teachers and staff. Edline and ePals further note that one only need to look at the cost for a multitude of "bargain" sites to see that K-12 web hosting providers offer complete solutions at a fraction of the cost of what would be required from a generic provider.[42]

At the very least, before making the drastic change of eliminating web hosting from the ESL because it believes the price of services are too high, the Commission should work with E-rate applicants and vendors to develop a comprehensive understanding of the costs associated with tailored web hosting services for K-12 school districts.

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[40] SECA Initial Comments on the FY 2010 Draft Eligible Services List for Schools an Libraries Universal Service Mechanism, CC Docket No. 02-6, DA 09-1233, at 15-16.

[41] *See* Schoolwires at 14-15; Edline and ePals at 21.

[42] Edline and ePals at 21.

D. Existing Mechanisms Prevent Unlawful Bundling

SECA claims that web hosting providers are bundling services in such a way that costs for eligible services are inflated and the costs of ineligible services are reduced. SECA recommends that the Commission require web hosting providers and E-rate applicants to itemize the pricing of E-rate eligible features in their E-rate contracts.[43] This is unnecessary. Detailed cost allocation guidelines and cost-effectiveness rules already exist under the E-rate program.[44] These are the proper mechanisms for dealing with unlawful bundling.

It is understood, as Funds for Learning describes, that these cost allocation and eligibility reviews are often difficult to administer in the context of web hosting.[45] However, that does not mean the Commission should remove eligibility. Instead, the Commission should work toward establishing clearly defined eligibility parameters that will enable USAC to more easily and accurately administer cost allocation and eligibility reviews to better validate that E-rate support is being provided for eligible purposes.

III. CONCLUSION

The record clearly demonstrates that web hosting services are essential to the educational purposes of schools and libraries. As the comments clearly show, eliminating web hosting as an eligible E-rate service will have a profound impact on school districts, especially districts with fewer financial resources, and will jeopardize one of schools' most important avenues for communicating important information to students, their parents, and their communities. The Commission's tentative conclusion to remove web hosting from the ESL is contrary to the

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[43] SECA Initial Comments on the FY 2010 Draft Eligible Services List for Schools and Libraries Universal Service Mechanism, at p.16.
[44] *See* http://www.usac.org/sl/applicants/step06/cost-allocation-guidelines-products-services.aspx; http://www.usac.org/sl/applicants/step04/.
[45] Comments of Funds for Learning at p. 10-11.

Commission's goals under the National Broadband Plan and will have an insignificant effect on fund availability. Moreover, the reasons set forth in comments by those who recommend removing web hosting as an eligible service are flawed and do not address the Commission's concerns surrounding continued eligibility. The Commission must therefore continue to fund web hosting as a Priority 1 eligible service.

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